



CITY OF SUNNYVALE, CALIFORNIA

REQUEST FOR PROPOSALS NO. F0404-59

**TO PROVIDE FOOD SERVICES
AT THE
SUNNYVALE SENIOR CENTER**

**Issued
May 17, 2005**

**PROPOSALS DUE:
WEDNESDAY, June 29, 2005, AT 3:00 PM**

**In the Purchasing Division
Sunnyvale City Hall Annex
650 West Olive Avenue
PO Box 3707
Sunnyvale, CA 94088-3707**

**BUYER: DREAMA HOWARD
(408) 730-7396
dhoward@ci.sunnyvale.ca.us**

RECOMMENDED PRE-PROPOSAL CONFERENCE AND SITE WALKTHROUGH:
Date and Time: Wednesday, June 8, 2005, 2:30 – 4:00 p.m.
**Location: Senior Center
550 East Remington Drive
Sunnyvale, California**

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SECTION I. NOTICE INVITING PROPOSALS

This is an invitation to provide food services at the Sunnyvale Senior Center, 550 East Remington Drive, Sunnyvale, California, for a period of two years, beginning approximately September/October, 2005, with an option to extend the contract for one additional one-year period.

SECTION II. INSTRUCTIONS TO PROPOSERS

- A. Preparation of Proposal** - Proposals shall be written and shall be in the prescribed format and contain all information required by this Request for Proposals (Section V. Proposal Format). No oral, telegraph, telephone, facsimile or electronic proposals will be accepted. All costs of proposal preparation shall be borne by the proposer.
- B. Examination of Proposal Solicitation Documents** - The proposal solicitation documents consist of this Request for Proposals, each and every document listed in the Table of Contents of the RFP, and any addenda which may have been issued. Proposer shall thoroughly examine and be familiar with all proposal solicitation documents. Submission of a proposal shall constitute proposer's acknowledgment upon which the City may rely that proposer has thoroughly examined and is familiar with the proposal solicitation documents. Failure or neglect of proposer to receive or examine all or part of the proposal solicitation documents shall in no way relieve the proposer from any obligations with respect to this RFP or any resultant Service Agreement. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any part of the proposal solicitation documents.
- C. Conformance to RFP Requirements** - Proposal shall conform to the requirements of this Request for Proposals. All requested attachments shall be submitted with the completed Proposal Form and in the designated format. Failure to comply with all requirements may result in proposal rejection.
- D. Interpretation of Proposal Solicitation Documents and Addenda** - Should a proposer discover conflicts or ambiguity in the proposal solicitation documents that require a decision or explanation, proposer may request an interpretation. Such a request shall be made in writing and delivered to the person identified on the cover page of this RFP no later than five (5) calendar days before the deadline for receipt of proposals. Every interpretation made to proposers will be in the form of an Addendum issued by the City. Addenda, if issued, will be sent as promptly as possible to all parties that have been issued proposal solicitation documents. Only properly issued Addenda shall be binding upon City; any oral and/or other form of interpretation or clarification will have no legal or contractual effect. Proposers shall acknowledge the receipt of Addenda on the Proposal Form.
- E. Submission of Proposal** - Proposer shall submit an original (clearly marked 'Original') and one (1) copy (clearly marked 'Copy') of the Proposal, together with any required attachments or explanatory materials, prior to the time and date set for receiving proposals as stated on the cover page of this RFP or any modifying Addenda. Proposal shall be delivered in a sealed envelope **clearly marked with the applicable RFP number** addressed to:
- City of Sunnyvale
Purchasing Division
City Hall Annex
650 West Olive Avenue
PO Box 3707
Sunnyvale, CA 94088-3707
- F. Modification or Withdrawal of Proposals**
1. Before Date and Time for Receipt of Proposals - Proposals that contain mistakes discovered by a proposer before the date and time for receipt of proposals may be modified or withdrawn by written notice to City's Purchasing Officer received prior to the deadline. Any modification shall be clearly identified as such and shall be made in writing, executed and submitted in the same form and manner as the original proposal.

2. After Date and Time for Receipt of Proposals - A proposer may not modify its proposal after the date and time set for receipt of proposals. A proposer alleging a mistake in a proposal may be permitted to withdraw its proposal if proposer alleges that a mistake was made in its proposal that made the price materially different than intended, provided that proposer gives written notice of the mistake and the manner in which it occurred to City's Purchasing Officer within five (5) calendar days following the deadline for receipt of proposals and City's Purchasing Officer deems it to be in the best interest of the City.

G. Pre-Proposal Conference and Site Walkthrough - A pre-proposal conference and walkthrough of the relevant portions of the Senior Center and Community Center at 550 East Remington Drive, Sunnyvale, California, will be held on Wednesday, June 8, 2005, beginning at 2:30 p.m. ***This pre-proposal conference and walkthrough are not mandatory but highly recommended.*** The purpose of the conference and walkthrough is to discuss City objectives, to allow proposers to examine the facility, to answer proposer questions and/or to clarify City's requirements. Written addenda may be issued to all attendees if deemed appropriate and necessary by City.

The City shall presume that any proposer who submits a proposal is thoroughly familiar with all specifications and requirements of the Request for Proposals (RFP). Proposer's failure to examine any form or document or to examine the facility and/or equipment and furnishings shall in no way relieve the proposer from any obligation in respect to the proposal.

H. Late Proposals - Proposer shall be responsible for the timely delivery of proposal. Proposals received after the deadline for receipt of proposals shall not be accepted and shall be returned to the proposer unopened unless necessary for identification purposes.

I. Public Opening of Proposals - Each proposal, irrespective of any defects or irregularities, that has been received prior to the deadline for receipt of proposals, except those that have been properly withdrawn, will be publicly opened by a representative of the Purchasing Division at the date and time announced for such opening. If one or more members of the public are present, the name and address of each proposer will be read aloud at or shortly following the deadline for receipt of proposals.

J. Proposal to Remain Open - The proposer shall guarantee its proposal for a period of ninety (90) calendar days from the date of public opening.

K. Non-Collusion Certification - By submitting a proposal, proposer is certifying that it has not directly or indirectly been collusive with any other proposer in the preparation and submission of the proposal. If at any time it shall be found that the proposer to whom a contract has been awarded has, in presenting the proposal, colluded with any other party or parties, said proposer shall be liable to the City for all loss or damage which the City has or may suffer as the result of the collusive activity, including, but not limited to, the cost of advertising and awarding a new contract.

L. Proposer Qualifications - To be considered, proposer must have a minimum of three (3) years experience providing similar services of similar scope.

M. Proposal Evaluation - An evaluation team consisting of the City's Purchasing Office and representatives of the City's Parks and Recreation Department will evaluate all written proposals received; and each written proposal will be awarded a maximum of 100 points, based upon the following evaluation criteria:

<u>Evaluation Criteria</u>	<u>Maximum Points</u>
1. Completeness of the proposal and adherence to the specified format.	5
2. Proposer's experience successfully providing similar services of similar scope.	15
3. Proposer's understanding and sensitivity to the needs of Sunnyvale seniors.	10
4. Proposed approach and creativity in providing the required services.	20
5. Input from proposer's references.	10
6. Start up strategy, including staffing plan.	10
7. Proposer's financial status and stability.	10
8. Cost of Proposed Service	<u>20</u>
Total Possible Points	100

Points awarded to each proposer will identify the proposer most likely to meet the City's needs. The City will then enter into contract negotiations with the most highly rated proposer. Should negotiations fail to conclude with a contract acceptable to both parties, the City will release, at its discretion, the first selected proposer and begin negotiations with subsequent candidate(s).

All proposals will be held in strict confidence by the City until the conclusion of negotiations and the execution of a Service Agreement with the successful proposer.

The successful proposer will be formally notified of contract award by the issuance of a written Notice of Award.

N. Sunnyvale Business License – The successful proposer must either possess a current, valid Sunnyvale business license or must have submitted a Sunnyvale business license application and fee at the time of contract award.

O. Contract and Other Required Documents - Contract documents will consist of this Request for Proposals; its attachment(s), if any; the successful proposer's signed proposal; and a contract executed by the parties.

Within ten (10) calendar days of the date of issuance of the Notice of Award, the successful proposer shall submit the following documents to the Purchasing Officer:

1. Service Agreement - A Service Agreement executed in duplicate by the successful proposer. A sample agreement is attached to this Request for Proposals (Attachment A).
2. Evidence of Insurance - All required insurance certificate(s) and endorsement(s).
3. Sunnyvale Business License - A copy of a valid Sunnyvale business license or a business license application and fee if not already licensed.
4. W-9 - A completed Internal Revenue Form W-9.

Failure of the successful proposer to make a timely submission to the Purchasing Officer may result in a rescission of acceptance of the proposal by the City and an award of contract to another proposer.

P. Reservations - The City reserves the right to:

1. Postpone the date and time announced for receipt of proposals by issuance of an Addendum at any time prior to the deadline for receipt of proposals;
2. Reject any proposal that is conditional in any way or that contains erasures, items not called for, items not in conformity with applicable law, changes, additions, alternate proposals, or any other modifications of the Proposal Form which are not in accordance with the proposal solicitation documents;
3. Make any investigations deemed necessary to determine proposer's qualifications and ability to provide the required services;
4. Enter into discussions with any proposer to achieve clarification and/or full understanding of the proposal;
5. Enter into negotiations with those proposers reasonably likely of being considered for selection for contract award; and
6. Reject any or all proposals.

SECTION III. SPECIFICATIONS

A. Summary of Proposed Contract - Contractor shall operate a Senior Lunch Program at the Senior Center, 550 East Remington Drive, Sunnyvale, California, starting at noon, Monday through Friday, except holidays, throughout the contract term, including extensions. In exchange for providing this service, City shall grant to Contractor the shared use of the fully-equipped kitchen and an office/storage area at the Community Center. In addition to the Senior Lunch Program, there may be additional City or private catering services available for the Contractor.

B. Contract Term - The contract term shall be for two years, beginning upon contract execution. The contract may be extended for one additional one-year period at the option of the City. After the first year of the contract, City shall evaluate the service, based on the proposer's performance and customer satisfaction. The results of this evaluation will be shared with the Sunnyvale City Council.

- C. Background** - The Senior Center is a 23,000 square foot building which includes a multi-purpose room, kitchen, lobby/lounge area, fitness room, health counseling rooms, multi-use activity rooms and administrative offices. This facility serves as an informal gathering place for Sunnyvale seniors as well as the location of many ongoing and special events and activities.

For a number of years, the City has provided a nutritious lunch program at its Senior Center; and many local seniors have come to rely on both the nutritional and social benefits offered by this program. To assist proposers in proposal preparation, historical data relative to the City's provision of the Senior Lunch Program including revenue and expenses is available online at www.ci.sunnyvale.ca.us Report to City Council No. 05-093.

D. Scope of Services

1. Senior Lunch Program

Contractor shall plan, prepare and serve one congregate meal Monday through Friday at noon for a maximum of 95 participants with the exception of the following holidays (for which the City shall not be charged):

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
President's Day	Thanksgiving Day
Memorial Day	December Holidays (Christmas Eve through New Year's Eve)

In addition, lunch may not be served if Senior Center special events have been scheduled for the M-F noon time. Contractor will be considered for catering special events that may also be held during evenings or on weekdays at other times and/or weekends. Historically, participation in special event meals has ranged from 150 to 200 persons.

Contractor shall be required to provide meals, prepared on-site, of good quality, appeal and nutritional value. Monthly menu plans shall be prepared in advance and submitted to City at least seven (7) calendar days prior to the start of each new menu plan. (Samples of menus for the City-provided Senior Lunch Program will be distributed at the pre-proposal conference and site walkthrough.)

Prior to each meal, Contractor shall ensure that fresh condiments are available on each table, including salt, pepper, sugar, and sugar substitute.

The City prefers plated meals that include a hot entrée, dessert and beverage with optional soup and/or salad and bread basket. Meals shall be served to seniors at the table. Contractor may expect 6-8 senior volunteers to assist with the lunch program, on a daily basis.

Contractor shall bus and clean City-provided tables and chairs following each meal and shall place all trash in a City-provided dumpster at the end of each meal.

E. Obligations of Contractor

1. Contractor shall post monthly menus at least one day prior to the first day of each month.
2. Food and supplies shall be ordered and received by contractor.
3. Kitchen Area, Including Equipment - Contractor shall be responsible for providing janitorial service in the kitchen area and for the cleaning, care and maintenance of all City-provided kitchen equipment. A list of City-provided kitchen appliances and equipment will be provided at the pre-proposal conference and site walkthrough.
4. Table Service – The City prefers that the Contractor provide and maintain table service, including silverware, coffee mugs, glasses, and dishes.
5. Contractor shall provide cookware, utensils, etc.

6. Contractor shall provide specialized small appliances, if required.
7. Safety and Sanitation - Contractor shall be responsible for maintaining the kitchen, office space, delivery/entrance area and storage area in a clean, safe and sanitary condition to the satisfaction of City. Contractor shall provide to its employees environmental, health and safety training to ensure compliance with all federal, state and local laws or regulations, including those of the California State Health Department in relation to food preparation and the prevention of food-borne illnesses.
8. Contractor shall be responsible for the collection, storage and disposal of tallow.
9. Contractor shall provide all cleaning supplies used on the performance of services under this contract. All supplies shall be approved by the City prior to use in the Senior Center.
10. Contractor's Employees
 - A. Contractor's employees shall present a clean and neat appearance and shall wear uniforms at all times while performing work under this contract. At a minimum, uniforms shall consist of identical aprons or uniform shirts to which Contractor's business name and/or logo have been affixed. Uniforms shall be approved in advance by City.
 - B. Contractor's employees performing work under this contract shall speak, read, write and understand English.
 - C. Contractor shall designate a supervisor who will be the City's primary contact for services performed under this contract. All direction given to Contractor's supervisor shall be as binding as if given to Contractor.
 - D. Contractor shall remove from service on City premises any employee of Contractor who, in the opinion of City, is not performing the services in a proper manner or who is otherwise objectionable.
11. Reporting of Problems - Contractor shall regularly observe the general condition of all facilities, furniture and equipment and shall report problems to City. Contractor shall immediately notify the City, in writing, of any occurrence or condition that interferes with its ability to be in full compliance with contract requirements.
12. Security - City shall provide facility keys to Contractor, as required. Lost keys shall be immediately reported to City. The cost for replacement of keys lost by Contractor or re-keying of locks at City's discretion shall be paid by Contractor.
13. Contractor shall provide its own office equipment and computer. Only City-related documents may be duplicated using the Senior Center copy machine.
14. Contractor shall be responsible for securing Contractor-owned equipment and supplies to ensure their protection from damage or loss by other users of the kitchen.
15. Insurance - Contractor shall provide the insurance coverage described in RFP Section VI, Paragraph E. In addition, Contractor shall be solely responsible for insuring against loss or damage from fire, theft, or any other cause, at its own cost and expense, any furnishings, fixtures, equipment, merchandise and supplies provided by Contractor and used in the performance of services under this contract.

G. Obligations of City

1. City shall collect and manage all revenue generated through the Senior Lunch Program.
2. City shall work with the Contractor to review/approve monthly menu.
3. The cost of repair and maintenance of City-provided kitchen equipment shall be borne by City. City reserves the right to inspect all City-provided equipment from time to time to ensure that it is being cleaned and maintained in an appropriate manner.

4. Dining room furniture will be provided by City. Although Contractor may use this furniture while performing services under this contract, this use will not be exclusive. City-provided dining room furniture includes round and rectangular tables with a maximum seating capacity of 95 persons.
5. City shall setup, remove and store tables and chairs.
6. City shall coordinate and supervise the activities of senior volunteers.
7. Contractor shall have the shared use of an office and dry food storage area as well as use of freezer, refrigerator and coffee maker in the Senior Center adjacent to the kitchen area and shall provide janitorial service in these areas. The provision and maintenance of furnishings and shelving in the kitchen area.
8. City shall provide and pay for all electrical, natural gas, water and sewer services, including grease traps, used by Contractor in the performance of its services at the Senior Center.
9. City shall publish information about Contractor and its Senior Center services in City's quarterly Older Adult Guide at no charge to Contractor. This guide is distributed to over 4,000 Sunnyvale seniors each year in the Spring, Summer, Fall and Winter. In addition, the City may publish information at no charge to the Contractor, in the Quarterly Report and the Sunnyvale Parks and Recreation Youth and Activity Guide.

SECTION IV. TERMS AND CONDITIONS

A. Nomenclature

1. As used throughout this Request for Proposals and its attachments, the following terms are synonymous:
 - a. "Successful proposer" and "contractor".
 - b. "Contract" and "service agreement".
 - c. "Services" and "work".
2. "The City" refers to the City of Sunnyvale, California.

- B. Service Agreement** - Terms and conditions under which the services described in this RFP will be performed are set forth in the sample Service Agreement which is attached to this RFP (Attachment A).

SECTION V. PROPOSAL FORMAT

Proposals shall provide a narrative that includes the specific information identified below. To expedite review by City, information must be presented in the following sequence and format by number.

A. Proposer Background Information

1. Legal structure of entity submitting proposal (i.e. sole proprietor, partnership, corporation, etc. If a partnership or corporation, indicate the ownership, rights and roles of each member of the partnership or corporation.
2. All principals of entity submitting proposal and a contact person with contact address and telephone number.
3. Three (3) business references for whom the proposing entity has performed services similar in size and scope to those described in this RFP during the past three (3) years. Include the name of the organization and location and a contact person with contact address and telephone number.
4. Related experience of principals, including number of years, type of business, positions held, special training, certifications, level of authority, etc.

5. Proof of proposing entity's financial ability to fulfill probable contract commitments, such as copies of audited financial statements.
6. If proposer has ever failed to complete any contract awarded, note when, where, and why.
7. If proposer has been or is the subject of a bankruptcy or insolvency proceeding or subject to assignment for the benefit of creditors, note when, where, and why.

B. Proposed Services For Senior Lunch Program

1. Proposed start up strategy, including the initial stocking of the kitchen, staff training, marketing plan, etc.
2. Proposed staffing level, including number and type of positions.
3. Proposed supply of dinnerware, tableware, linens, etc.
4. A description of how proposer will use creativity in menu preparation, such as menus based upon a theme, a holiday or a special event. Include a sample menu.
5. A description of other forms of creativity proposer will use in providing the required services and/or making the lunch program appealing to potential participants.
6. A description of proposed food quality, portion size and nutritional content.
7. An explanation of how proposer will accommodate fluctuating daily attendance and how it would affect the cost.
8. The proposed cost per meal and minimum cost per day.
9. Any other information proposer believes will assist the evaluation team in understanding the proposal.

C. Facility Usage

1. Whether the proposer expects to use the kitchen at the Senior Center for anything in addition to the services performed under this contract. If yes, include an explanation.
2. How proposer plans to clean and maintain the kitchen, storage area, office area, kitchen appliances, etc.
3. How proposer plans to secure its equipment, supplies and food items during those times when the kitchen is being used by others.

D. Signature

The proposal must be signed by either the proposer or an officer, partner or other representative duly authorized to sign such proposals on behalf of the proposer. If not signed by the proposer, a notarized resolution of the governing board of the entity must be attached which establishes such authority to the signer.

ADDENDA

Proposer acknowledges receipt of the following Addenda:

Number _____ Date _____
Number _____ Date _____
Number _____ Date _____

SIGNATURE

Signature	Title
Name (printed or typed)	Date
Telephone Number	Fax Number
Tax ID Number	Sunnyvale Business License Number

ATTACHMENT "A"
SERVICE AGREEMENT BETWEEN CITY OF SUNNYVALE
AND _____
FOR FOOD SERVICES AT THE SUNNYVALE SENIOR CENTER

THIS AGREEMENT, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and _____ ("CONTRACTOR").

WHEREAS, on May 17, 2005, CITY issued Request for Proposals No. F0404-59; and

WHEREAS, CONTRACTOR has submitted a proposal in response to this Request for Proposals; and

WHEREAS, CITY has determined that CONTRACTOR's proposal offers the best value to CITY;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services

(a) There are attached and incorporated by this reference the following exhibits:

- (1) Exhibit "A", consisting of Pages {number} through {number}, inclusive, and Attachments {number} of that certain document entitled "Request for Proposals No. F0404-59". The document consists of the Notice Inviting Proposals, Instructions to Proposers, Specifications, Terms and Conditions, and Proposal Format, which was submitted to all prospective proposers.
- (2) Exhibit "B", consisting of Pages {number} through {number}, inclusive, of that certain document presenting the response to Request for Proposals No. F0404-59, as submitted to CITY by CONTRACTOR with the pertinent information provided by CONTRACTOR in response to the Request for Proposals.

(b) CONTRACTOR shall perform the services described in Pages {number} through {number}, inclusive, of Exhibit {number} as well as those agreed to by both parties prior to Agreement execution, as follows: (to be determined during contract negotiation).

2. Time for Performance

The term of this Agreement shall be two years, beginning on {date}. Agreement may be extended for one additional one-year period at the option of CITY, provided that notice of such extension is provided to CONTRACTOR thirty (30) days in advance.

Time is of the essence in the performance of the Agreement. If services cannot be performed at the specified time, CONTRACTOR shall promptly notify CITY of the earliest possible date for performance of the services. Notwithstanding such notice, if CONTRACTOR, for any reason whatsoever, fails to perform the services within the time specified, CITY may terminate the Agreement or any part thereof without liability except for services previously performed and accepted.

3. Duties of CITY

CITY shall meet all obligations set forth in Exhibit "A" as well as those agreed to by both parties prior to Agreement execution, as follows: (to be determined during contract negotiation).

4. Compensation

CONTRACTOR shall receive no compensation from CITY for the performance of services described in Exhibit "A".

5. Conflict of Interest

No officer or employee of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement CONTRACTOR shall not accept employment or an obligation which is inconsistent or incompatible with CONTRACTOR's obligations under this Agreement.

6. Confidential Information

CONTRACTOR shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which CONTRACTOR may become aware in the performance of its services.

7. Compliance with Laws

- (a) CONTRACTOR shall strictly adhere to all state and federal laws with respect to discrimination in employment and shall not discriminate against any individual on the basis of race, color, religion, gender, sexual orientation, marital status, national origin, age or disability.
- (b) CONTRACTOR shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

8. Independent Contractor

CONTRACTOR is acting as an independent contractor in performing the work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONTRACTOR. CONTRACTOR is responsible for paying all required state and federal taxes.

9. CITY Representative

John Lawrence, as City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

10. CONTRACTOR Representative

_____ shall represent CONTRACTOR in all matters pertaining to the services and materials to be rendered under this Agreement. All requirements of CONTRACTOR pertaining to the services to be rendered under this Agreement shall be coordinated through the CONTRACTOR representative.

11. Notices

All notices required by the Agreement shall be in writing, and shall be personally delivered or sent by first class mail, postage prepaid or by commercial courier, addressed as follows:

To CITY: John Lawrence
 Department of Parks and Recreation
 CITY OF SUNNYVALE
 P. O. Box 3707
 Sunnyvale, CA 94088-3707

To CONTRACTOR:

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail or commercial carrier, or hand delivered.

Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

12. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

13. Termination

If CONTRACTOR defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONTRACTOR. If CITY fails to pay CONTRACTOR, CONTRACTOR at its option may terminate this Agreement if the failure is not remedied by CITY within thirty (30) days from the date payment is due.

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONTRACTOR shall present CITY with any work product completed at that point in time.

14. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

15. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

("CONTRACTOR")

By _____
City Attorney

By _____

Title and Date

[Include second signature only if corporation]

By _____

Title and Date

ATTACHMENT A - EXHIBIT "C"

INSURANCE REQUIREMENTS

CONTRACTOR shall obtain, at its own expense and from an admitted insurer authorized to operate in California, the insurance coverage detailed below and shall submit Certificate(s) of Insurance to the City of Sunnyvale, Purchasing Division, 650 West Olive Ave, PO Box 3707, Sunnyvale, CA 94088-3707; fax (408) 730-7710.

CONTRACTOR shall take out and maintain during the life of the contract **Workers' Compensation and Employer's Liability Insurance** for its employees. The amount of insurance shall not be less than \$1,000,000 per accident for bodily injury or disease.

CONTRACTOR shall take out and maintain during the life of the contract such **Commercial General Liability Insurance** as shall protect CONTRACTOR, CITY, its officials, officers, directors, employees and agents from claims which may arise from services performed under the contract, whether such services are performed by CONTRACTOR, by CITY, its officials, officers, directors, employees or agents or by anyone directly or indirectly employed by either. The amount of insurance shall not be less than the following: Single Limit Coverage Applying to Bodily and Personal Injury Liability and Property Damage: \$1,000,000.

The liability insurance shall include, but shall not be limited to:

- Protection against claims arising from bodily and personal injury and damage to property, resulting from CONTRACTOR's or CITY's operations and use of owned or non-owned vehicles.
- Coverage on an "occurrence" basis.
- Broad form property damage liability. Deductible shall not exceed \$5000 without prior written approval of CITY.
- Notice of cancellation to CITY's Purchasing Division at least thirty (30) days prior to the cancellation effective date.

The following endorsements shall be attached to the liability insurance policy, and copies shall be submitted with the Certificate(s) of Insurance:

- The policy must cover complete contractual liability. Exclusions of contractual liability as to bodily injuries, personal injuries and property damage must be eliminated.
- CITY must be named as additional named insured with respect to the services being performed under the contract.
- The coverage shall be primary insurance so that no other insurance effected by CITY will be called upon to contribute to a loss under this coverage.